

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

UNITED STATES OF AMERICA

v.

DARRELL FOGARTY,

Defendant.

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Case No. 2:04CR00004

FINAL ORDER

By: James P. Jones

United States District Judge

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** that the defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (ECF No. 251) is DENIED; and the § 2255 proceeding is stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: April 1, 2013

/s/ James P. Jones

United States District Judge